

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

BRENT EVAN WEBSTER,

Petitioner,

v.

THE STATE OF OREGON, et al.,

Respondents.

Civ. No. 2:11-225-SU

OPINION AND ORDER

MOSMAN, J.,

On August 1, 2011, Magistrate Judge Sullivan issued her Findings and Recommendation (“F&R”) [9] in the above-captioned case, recommending that petitioner’s Petition for Writ of Habeas Corpus [1] be denied, and that judgment enter dismissing this case without prejudice. Plaintiff filed a document titled “Verified Complaint Owen M. Panner Reassignment” [13] on August 15, 2011, and a “Motion-USDC Directive” [12] on August 16, 2011. Respondents have not filed a response to petitioner’s filings.

STANDARD OF REVIEW

The magistrate judge makes only recommendations to the court, to which any party may file written objections. The court is not bound by the recommendations of the magistrate judge, but retains responsibility for making the final determination. The court is generally required to make a de novo determination regarding those portions of the report or specified findings or

recommendation as to which an objection is made. 28 U.S.C. § 636(b)(1)(C). However, the court is not required to review, de novo or under any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the F&R to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). While the level of scrutiny under which I am required to review the F&R depends on whether or not objections have been filed, in either case, I am free to accept, reject, or modify any part of the F&R. 28 U.S.C. § 636(b)(1)(C).

DISCUSSION

I find that petitioner's filings since the F&R neither respond to nor remedy the problems identified in Judge Sullivan's April 22, 2011, Order to Show Cause [5]. Accordingly, Judge Sullivan's recommendation remains correct, whether the filings are construed as objections to the F&R or an attempt to file an amended petition. Upon review, I agree with Judge Sullivan's recommendation and I ADOPT the F&R [9] as my own opinion.

IT IS SO ORDERED.

DATED this 31st day of August, 2011.

/s/ Michael W. Mosman
MICHAEL W. MOSMAN
United States District Court